



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

CH

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

. 08/965,367 11/06/97 SPEICHER

G 935003

┌

LM02/0322

┐

EXAMINER

WARD & OLIVO
708 THIRD AVENUE
NEW YORK NY 10017

LEE, C

ART UNIT

PAPER NUMBER

2733

DATE MAILED:

03/22/99

2

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/965,367

Applicant(s)

Speicher

Examiner

Andrew Lee

Group Art Unit

2733

☒ Responsive to communication(s) filed on Nov 6, 1997

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1 and 2 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1 and 2 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 2733

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities: delete “ means for” in the body of the claim. Appropriate correction is required. The Claim 1 recites a method Claim, however the body recites an apparatus. Means plus function refers to the structure and not the process.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Rostoker et al U.S. Patent # 5,872,784.

Re Claims 1 and 2, Rostoker et al teach a method for storing an audio file and listening to said audio file via the internet, said method comprising: storing an audio file in digital memory (Fig 1: 310 database or the secondary memory of the remote laptop); transferring said audio file to an internet access node (Fig 1: 314 remote node server); controlling said transfer

Art Unit: 2733

(laptop Col 7 lines 52 +); wherein said means for transferring said audio said audio file format said audio message for output into human perceivable form (it is anticipated that the accessed audio file by the laptop[Internet access node] to include a speaker connection).

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Civanlar et al 5737333 teach interconnecting hosts with telephone networks;

Kalwitz 5696899 teaches the method of adaptively determining the packet format carried in LAN.

5. Inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Lee whose telephone number is 703)305-1500. The examiner can normally be reached on Monday-Friday from 8:30 AM - 6:00PM, Eastern Time. If attempts to reach the examiner by telephone are not successful, the examiner's supervisor,

Mr. Jason Chan, can be reached on 703)305-4729.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks Washington, DC 20231 or faxed to:

(703) 308-9051, for formal communications intended for entry **or** (703) 308-5403,

for informal or draft communications, please label **"PROPOSED"** or **"DRAFT"**.

Hand-delivered responses should be brought to: Crystal Park II, 2121 Crystal Drive, Arlington, Virginia Sixth Floor (Receptionist).

Application/Control Number: 08/965,367

Page 4

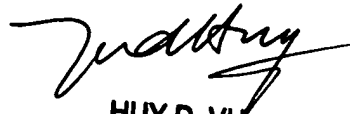
Art Unit: 2733

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703)305-3900.



Andrew Lee

March 10, 1999



HUY D. VU
PRIMARY EXAMINER